

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 111—Sales/Use Tax—Machinery and Equipment Exemptions

EMERGENCY RULE

12 CSR 10-111.011 Machinery, Equipment, Materials, and Chemicals Used or Consumed in Manufacturing, as Defined in Section 144.054, RSMo.

PURPOSE: Section 144.054.2, RSMo, exempts machinery, equipment, materials, and chemicals used or consumed in manufacturing, processing, compounding, mining or producing any product, or used in research and development related to manufacturing, processing, compounding, mining or producing any product from state sales and use tax and local use tax, but not local sales tax. This rule explains what elements must be met in order to qualify for these exemptions.

*EMERGENCY STATEMENT: The director finds that there is an immediate danger to the public welfare, which can only be addressed through this emergency rule. This emergency rule is necessary to ensure public awareness and to preserve a compelling governmental interest requiring an early effective date in that the emergency rule informs the public of new sales tax exemptions that are available to various sellers and their customers as a result of enactment of TAFP CCS HCS SB 30 by the 94th Missouri General Assembly. These exemptions are effective August 28, 2007, and taxpayers need guidance regarding how these statutory changes impact them. A proposed rule, which covers the same material, is published in this issue of the **Missouri Register**. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri and United States Constitutions**. The director believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule filed Aug. ____, 2007, effective Aug. 28, 2007, expires Feb. 23, 2008.*

(1) In general, the purchase of machinery, equipment, materials and chemicals used or consumed in manufacturing, processing, compounding, mining or producing any product or is used in research and development related to manufacturing, processing, compounding, mining or producing any product is exempt from state sales and use tax and local use tax, but not local sales tax.

(2) Definition of Terms.

- (A) Equipment—See 12 CSR 10-111.010.
- (B) Fabrication— See 12 CSR 10-111.010.
- (C) Machinery- See 12 CSR 10-111.010.
- (D) Manufacturing— See 12 CSR 10-111.010.
- (E) Mining— See 12 CSR 10-111.010.
- (F) Producing— See 12 CSR 10-111.010.

(3) Basic Application of Exemption.

(A) Pursuant to Section 144.054.2, RSMo, purchases of machinery, equipment, materials and chemicals used or consumed in manufacturing, processing, compounding, mining or producing any product or used in research and development related to manufacturing, processing, compounding, mining or producing any product is exempt from state sales and use tax and local use tax, but not local sales tax.

(B) The exemptions do not require that the owner of the facility be the purchaser to qualify for the exemption or that the purchaser be the one who uses the machinery, equipment and materials in an exempt fashion. All that is required is that the machinery, equipment and materials are used in a tax-exempt manner.

(4) Exempts Examples.

(A) A manufacturing company purchases various pieces of testing equipment to perform research and development on potential future products. The testing equipment for research and development is exempt from state sales and use tax and local use tax, but not local sales tax, because it is used or consumed in research and development related to manufacturing a product.

(B) A commercial photo developer uses "crop cards" to hold individual negatives in the film developing process; they are discarded after a single use. The developer also uses tape to connect negative strips so that the negatives may be fed through its automatic film developing machinery and equipment. The crop cards and tape are exempt from state sales and use tax and local use tax, but not local sales tax, as materials used and consumed in producing a product.

(C) A manufacturer purchases materials to develop models for research and development for use in designing a new product. The manufacturer may purchase the materials exempt from state sales and use tax and local use tax, but not local sales tax, because they are used in research and development related to manufacturing.

(D) Workers in a manufacturing plant are required to wear safety equipment while producing a product. The safety equipment is exempt from state sales and use tax and local use tax, but not local sales tax, because it is used to produce a product.

(5) Non Exempt Examples.

(A) A taxpayer operates a concrete manufacturing plant. The taxpayer purchases dump trucks to haul, to customers, concrete slabs that had been manufactured in its plant. The dump trucks would not qualify for exemption because they are not used in the manufacturing process, but rather, in the shipping process.

(B) A taxpayer creates and sells a nontaxable information service. To develop its service, the taxpayer purchases computer hardware and software. The computer hardware and software do not qualify for the state tax exemption pursuant to section 144.054.2, RSMo, because they are machinery and equipment used in producing a service and not a product.

*AUTHORITY: section 144.270, RSMo 2000 and CCS HCS SB 30, enacted by the 94th General Assembly, 2007. Emergency rule filed Aug. ____, 2007, effective Aug. 28, 2007, expires Feb. 23, 2008. A proposed rule, which covers the same material, is published in this issue of the **Missouri Register**.*